



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 4896-98

15 November 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that on 26 February 1996, the Record Review Panel of the Physical Evaluation Board made preliminary findings that you were unfit for duty because of bilateral knee pain, which it rated at 10% less a 0% existed prior to entry factor. You accepted those findings on 7 March 1996, and were discharged with entitlement to disability severance pay on 10 April 1996. Effective 11 April 1996, the Department of Veterans Affairs (VA) awarded you ratings 10% for your knee condition, 20% for hypertension, and 10% for a low back condition, for a combined rating of 40%.

The Board noted that the Navy assigns disability ratings only to those conditions which render a service member unfit for duty or contribute to an unfitting condition and warrant a separate rating, whereas the VA must rate all condition it classifies as "service connected", that is, incurred in or aggravated by military service. Although you suffered from hypertension and back pain prior to your discharge, neither condition was severe enough to warrant a finding of unfitness. In this regard, it noted that, in general, hypertension is cause for referral to the disability evaluation system only in those cases where the diastolic pressure

is consistently greater than 100 mm of mercury following adequate therapy. Your diastolic readings at separation fell between 82 and 90 mm of mercury without medication. You had a remote history of minor back pain which did not significantly interfere with your performance of duty. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director